

SOUTHERN ENVIRONMENTAL LAW CENTER

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June 10, 2020

Via Electronic Mail

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FOIA Officer
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cpo@doc.gov

Re: Freedom of Information Act Request – Executive Order 13927

Dear Freedom of Information Act Officers:

On June 4, 2020, President Trump issued Executive Order 13927 which purports to waive or reduce compliance with various laws intended to protect public health and the environment. The Southern Environmental Law Center (SELC) and the numerous organizations we work with across the Southeast and nationwide are highly concerned about the effect this Executive Order will have on our communities and the environment. The laws the Executive

Order purports to waive or shortcut were enacted to give vulnerable communities a voice when pipelines and highways bear down on their homes; to protect the drinking water supplies we all rely on for sustenance; to protect the most vulnerable threatened and endangered species amongst us and the habitats that they rely on; to give people a voice in the public lands that millions of them visit each year; to ensure that we do not take ill-considered actions today only to regret them tomorrow. These ends are beneficial to everyone that calls America home.

The Executive Order is a threat to these values. Problematically, the Executive Order seeks to move federal agency decisionmaking behind closed doors, negotiating deals with companies who will reap the vast majority of monetary benefits from building infrastructure projects while the public is largely left in the dark. To be clear, we favor smart infrastructure construction. We do not favor opaque governance.

We share the President's concern with the state of the economy. We differ on strategies to rectify that problem. We do not understand how the Executive Order could be beneficial to most people in America. But we will try to understand, and help the public better understand, the reasoning behind it. Accordingly, pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, SELC hereby requests access to the following documents or other public records:

- Any and all documents related to Executive Order 13927 in the possession of Recipient Agency
 - For purposes of this request "Recipient Agency" and "you" are defined as each individual agency that this request is addressed to regardless of other recipients. For example, when the Forest Service is responding to this request, "Recipient Agency" and "you" are defined to mean the Forest Service only; as if the request was sent only to the Forest Service.
 - This request includes but is not limited to:
 - All correspondence with any entity, organization, individual, member of Congress, or executive agency, other than Recipient Agency, related to the actions being taken with Executive Order 13927, including correspondence with the Executive Office of the President;
 - Any documents identifying specific projects or types of projects that could potentially use the authority in Executive Order 13927;
 - Any analysis of time or cost savings that could be achieved through Executive Order 13927;
 - Any analysis of effects to the environment from Executive Order 13927.
- Any document generated in responding to this request.

This request for documents or other public records includes all reports, studies, correspondence, memoranda, e-mails, analyses, meeting notes or other notes of any kind, drafts

and working papers, and every other document, recorded communication, or record of any kind (including records which exist electronically). The request includes communications which took place over electronic messaging platforms such as Google Hangout, Skype, or Google Chat. The request includes phone logs and text messages. In addition, we request access to each version of a record or document, whether it is a draft, has been electronically deleted, has attachments, bears annotations, etc. We request access to all relevant documents in Recipient Agency's possession whether they were created, edited, received, or forwarded by Recipient Agency.

Please include records up to the date that you commence searching for responsive records. *We also ask that you expedite your response to this request.* Expedited processing is appropriate given that the Executive Order calls specifically for "expedited government decision making." Executive Order, § 2. Too much is at stake for agencies to slowly produce documents while projects move forward in the processes recommended by the Executive Order. Receiving documents that explain these actions only after communities are displaced, trees are cleared, and streams are crossed is cold comfort.

If you take the position that any of the above-described public records are not open to public inspection under the FOIA, please explain the basis for your position and identify any statute, rule of law, or other authority upon which you rely. In accordance with FOIA, 5 U.S.C. § 552(b), please produce all segregable portions of responsive documents and justify any redactions by reference to specific FOIA exemptions, including grounds for your reasonable belief that disclosure would harm an interest protected by the referenced exemption. *See* 5 U.S.C. § 552(a)(8)(A)(i)(I).

If fees will be incurred for search time, or if fees will be incurred for document reproduction, SELC requests that the fees be waived as provided by 5 U.S.C. § 552(a)(4)(A)(iii), because public disclosure of the requested information "is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."

This request concerns the actions of the federal government. On June 4, 2020, President Donald Trump issued Executive Order 13927 which purports to waive or reduce compliance with environmental laws by federal agencies. Portions of the Executive Order are targeted specifically at projects on lands owned by the federal government. There can be no question that this request concerns the actions of the federal government.

Disclosure of the requested information is likely to contribute to increased public understanding of the activities and operations of the federal government. SELC is requesting documents which would help explain why the government is taking this action and what analyses have been completed to show how the action may affect economic growth as well as how the

action may affect the environment including public lands under the jurisdiction of various federal agencies. We are not aware that any of this information exists in the public sphere. Disclosure of the information will help the public understand why the Administration believes this action is necessary and what it expects the Executive Order to accomplish.

The contribution to public understanding by disclosure of the requested materials is likely to be significant. SELC has significant expertise in the field of environmental law and a proven ability and willingness to effectively convey information to a broad audience including by use of its website: www.southernenvironment.org.¹ SELC staff members often discuss current environmental issues at conferences, community meetings, in the press, through podcasts, on television, in Congressional hearings, and through other avenues. SELC intends to share the requested information broadly including with members of the media.

Moreover, the public's understanding of the intention behind this Executive Order and its likely effects is currently limited because, beyond the Executive Order itself, the Executive Branch has offered almost no explanation of what it believes this Executive Order will achieve or the tradeoffs inherent in waiving environmental laws. Disclosure of the requested information will be significant if for no other reason than the public sphere is currently devoid of any information about this Executive Order.

SELC has no commercial interest in the disclosures. SELC is a nonprofit organization with a public interest mission and, by definition, no commercial interests. SELC seeks the disclosure solely in the public interest of obtaining information about activities and operations of the federal government. SELC does not profit or otherwise have commercial interests in document review nor does it sell or distribute government information for financial gain. While SELC is a legal organization, it does not profit, or otherwise have a commercial interest, in litigation. SELC does not charge its clients for attorney time or enter into contingency agreements.

We request that information be delivered electronically, by a file-sharing service, removable storage, or email, to the extent possible. We are happy to coordinate provision of a file-sharing service.

If you have any questions, please do not hesitate to contact me. We recognize that we are sending this request to multiple agencies and we desire to reduce any duplicative work among the agencies and production of duplicative documents. Our request is comprehensive because there is very little public information available about this Executive Order. As a result, we do

¹ See, e.g., Conservation Groups Challenge EPA's Gutting of Clean Water Protections in Federal Court *available at* <https://www.southernenvironment.org/news-and-press/press-releases/conservation-groups-challenge-epas-gutting-of-clean-water-protections-in-federal-court>.

not know what agencies may possess these documents or what agencies may have worked with the White House to create the strategy reflected in the Executive Order. We welcome further conversation about ways to reduce the burden of responding to our request while ensuring we receive all responsive documents in a timely manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Hunter". The signature is fluid and cursive, with the first name "Patrick" being more prominent than the last name "Hunter".

Patrick Hunter
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